## **COMMITTEE AMENDMENT FORM**

DATE: 11/13/07

COMMITTEE <u>CITY UTILITIES</u> PAGE NUM. (S) <u>1</u>

**ORDINANCE I. D.** #07-O-2230 **SECTION (S)** 

RESOLUTION I. D. #07-R- PARA. 7<sup>TH</sup>

AMENDS THE LEGISLATION BY CORRECTING THE REFERENCED ORDINANCE NUMBER IN THE  $7^{\rm TH}$  WHEREAS FROM 07-O-0301 TO 07-O-0376

AMENDMENT DONE BY COUNCIL STAFF 11/13/07

### BY CITY UTILITIES COMMITTEE

AUTHORIZING THE ABANDONMENT OF CERTAIN SEWER EASEMENTS ON CERTAIN PROPERTY OWNED BY GLENWOOD PARK, L.L.C. AND LOCATED IN LANDLOT 12 OF THE 14<sup>TH</sup> DISTRICT OF FULTON COUNTY; ACKNOWLEDGING AND AUTHORIZING THE ACCEPTANCE OF NEW SEWER EASEMENTS FOR THE NEW STORM AND SANITARY SEWER SYSTEM CONSTRUCTED BY GLENWOOD PARK, L.L.C. UPON FINAL ACCEPTANCE OF THE DEDICATED THE RATIFICATION OF AUTHORIZING INFRASTRUCTURE; ENCROACHMENT AGREEMENT ALLOWING GEORGIA POWER FACILITIES TO BE LOCATED WITHIN THE DESIGNATED EASEMENT AREA AS DESCRIBED IN AUTHORIZING THE MAYOR OR HER DESIGNEE TO THIS ORDINANCE; EXECUTE ANY NECESSARY DOCUMENTS AND INSTRUMENTS; AND FOR OTHER PURPOSES.

WHEREAS, Glenwood Park, LLC ("Glenwood Park") owns certain real property known as the Glenwood Park Planned Development located in Land Lot 12 of the 14<sup>th</sup> District of Fulton County, Georgia (the "Development") as further described in the legal description attached as Exhibit "A"; and

WHEREAS, the City of Atlanta has legal interest in certain easements (the "Old Easements") for stormwater and wastewater conveyance systems, portions of which ran across the Property; and

WHEREAS, the stormwater and wastewater conveyance systems existing within the Old Easements on the Property at the time of redevelopment, were not suitable for the planned redevelopment and were demolished or otherwise taken out of service per plans approved by the City; and

WHEREAS, Glenwood Park designed and constructed new separate storm sewer and wastewater conveyance system on the Property ("New Glenwood Improvements") so that it can become part of a separated sanitary and stormwater collection system to be maintained and operated by the City as part of the City's public sanitary and stormwater system; and

WHEREAS, the construction of the new stormwater and wastewater conveyance system allowed the removal of the certain old sewer mains that were demolished; and

WHEREAS, upon request of the underlying property owners, it is the normal and ordinary process of the City of Atlanta to abandon and otherwise release all claim to any unused easement and infrastructure which has no identifiable potential for future use, and to dissolve and remove the encumbrance to the affected property by quitclaiming all rights associated with the City's former interest in those unusable easements and infrastructure to the property owner; and

WHEREAS, in previous legislation, 07-O-0376, two sanitary sewer easements were abandoned in the Development and new sewer easements were dedicated to the City in a portion of the development; and

WHEREAS, this Ordinance authorizes the abandonment of the Old Easements and associated infrastructure and the acceptance of dedicated New Easements and infrastructure for the remaining portions of the Development upon final approval of that infrastructure; and

WHEREAS, the Glenwood Park desires to dedicate the New Glenwood Improvements to the City in exchange for the City abandoning its interest in the Old Easements and unusable infrastructure affecting the Property; and

WHEREAS, the Commissioner of the Department of Watershed Management ("DWM") recommends the abandonment of the Old Easements and unusable infrastructure, as further described in the attached Exhibit "B;" and

WHEREAS, the City will require additional easements in the vicinity of the New Glenwood Improvements ("New Easements") with their exact description and location described in the attached Exhibit "C"; and

WHEREAS, the Commissioner of the DWM recommends the acquisition of New Easements upon final approval of the New Glenwood Improvements; and

WHEREAS, Georgia Power has requested an encroachment agreement to use an area within the City's new separate storm sewer and wastewater conveyance system for the construction, operation and maintenance of its lines for transmitting electric current, with poles, wires, transformers, service pedestals, and other necessary apparatus, fixtures and appliances with the Development; and

WHEREAS, the Commissioner of the Department of Watershed Management also recommends the ratification of an encroachment agreement allowing Georgia Power facilities to be located within the easement area as described in the attached Exhibit "D."

# THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY ORDAINS AS FOLLOWS:

Section 1. That upon the Property belonging to Glenwood Park Planned Development lying in Land Lot 12 of the 14<sup>th</sup> District of DeKalb County in the City of Atlanta, (described in the attached Exhibit "A."), those sanitary sewer easements and infrastructure located therein from which the sewer mains have been removed, (described in the attached Exhibit "B") are hereby declared no longer useful or necessary for present or future public use and convenience.

<u>Section 2.</u> That the City accepts dedication of the remainder of the New sewer easements depicted and described in Exhibit "C", attached to this ordinance and incorporated herein by reference, upon receipt of properly executed easements granting sewer easements from the owner of record of the Property to the City in accordance with Exhibit "C" and in substantial form as prescribed by the City Attorney.

Section 3. That the Mayor is authorized to ratify the encroachment agreement allowing Georgia Power facilities to be located within the easement area described in those plans by Long Engineering Inc, attached and incorporated herein by reference as Exhibit D; and

Section 4. Upon final approval of this Ordinance and final approval and acceptance of all new sanitary and storm sewer facilities by the Department of Watershed Management, the Mayor or her designee is authorized to execute the Quitclaim Deeds, the Sewer Easement Agreements, and any documents and instruments necessary to accomplish the abandonments and dedications set forth in Sections 1-3 provided that all conditions set forth herein have been satisfied.

<u>Section 5.</u> That any and all other easements upon said Property to the interest of the City of Atlanta shall remain in effect unchanged.

<u>Section 6.</u> The City Attorney is authorized to prepare all necessary documents and instruments to effectuate the purposes set forth herein and to record all documents in the records of Fulton County as may be required.

<u>Section 7.</u> All ordinances and parts of ordinances in conflict with this ordinance are hereby waived to the extent of the conflict.

### AN ORDINANCE BY CITY UTILITIES COMMITTEE

AN ORDINANCE AUTHORIZING THE ABANDONMENT OF CERTAIN SEWER EASEMENTS ON CERTAIN PROPERTY OWNED BY GLENWOOD PARK, L.L.C. AND LOCATED IN LANDLOT 12 OF THE 14<sup>TH</sup> DISTRICT OF FULTON COUNTY; ACKNOWLEDGING AND AUTHORIZING THE ACCEPTANCE OF NEW SEWER SEWER SYSTEM EASEMENTS FOR THE NEW STORM AND SANITARY CONSTRUCTED BY GLENWOOD PARK, L.L.C. UPON FINAL ACCEPTANCE OF THE DEDICATED INFRASTRUCTURE; AUTHORIZING THE RATIFICATION OF **ENCROACHMENT AGREEMENT ALLOWING GEORGIA** FACILITIES TO BE LOCATED WITHIN THE DESIGNATED EASEMENT AREA AS AUTHORIZING THE MAYOR OR HER DESCRIBED IN THIS ORDINANCE: DESIGNEE TO EXECUTE ANY NECESSARY DOCUMENTS AND INSTRUMENTS; AND FOR OTHER PURPOSES.

WHEREAS, Glenwood Park, LLC ("Glenwood Park") owns certain real property known as the Glenwood Park Planned Development located in Land Lot 12 of the 14<sup>th</sup> District of Fulton County, Georgia (the "Development") as further described in the legal description attached as Exhibit "A"; and

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WHEREAS, the construction of the new stormwater and wastewater conveyance system allowed the removal of the certain old sewer mains that were demolished; and

WHEREAS, upon request of the underlying property owners, it is the normal and ordinary process of the City of Atlanta to abandon and otherwise release all claim to any unused easement and infrastructure which has no identifiable potential for future use, and to dissolve and remove the encumbrance to the affected property by quitclaiming all rights associated with the City's former interest in those unusable easements and infrastructure to the property owner; and

**WHEREAS**, in previous legislation, 07-O-0301, two sanitary sewer easements were abandoned in the Development and new sewer easements were dedicated to the City in a portion of the development; and

WHEREAS, this Ordinance authorizes the abandonment of the Old Easements and associated infrastructure and the acceptance of dedicated New Easements and infrastructure for the remaining portions of the Development upon final approval of that infrastructure; and

WHEREAS, the Glenwood Park desires to dedicate the New Glenwood Improvements to the City in exchange for the City abandoning its interest in the Old Easements and unusable infrastructure affecting the Property; and

WHEREAS, the Commissioner of the Department of Watershed Management ("DWM") recommends the abandonment of the Old Easements and unusable infrastructure, as further described in the attached Exhibit "B;" and

WHEREAS, the City will require additional easements in the vicinity of the New Glenwood Improvements ("New Easements") with their exact description and location described in the attached Exhibit "C"; and

WHEREAS, the Commissioner of the DWM recommends the acquisition of New Easements upon final approval of the New Glenwood Improvements; and

WHEREAS, Georgia Power has requested an encroachment agreement to use an area within the City's new separate storm sewer and wastewater conveyance system for the construction, operation and maintenance of its lines for transmitting electric current, with poles, wires, transformers, service pedestals, and other necessary apparatus, fixtures and appliances with the Development; and

WHEREAS, the Commissioner of the Department of Watershed Management also recommends the ratification of an encroachment agreement allowing Georgia Power facilities to be located within the easement area as described in the attached Exhibit "D."

# THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY ORDAINS AS FOLLOWS:

<u>Section 1.</u> That upon the Property belonging to Glenwood Park Planned Development lying in Land Lot 12 of the 14<sup>th</sup> District of DeKalb County in the City of Atlanta, (described in the attached Exhibit "A."), those sanitary sewer easements and infrastructure located therein from which the sewer mains have been removed, (described in the attached Exhibit "B") are hereby declared no longer useful or necessary for present or future public use and convenience.

Section 2. That the City accepts dedication of the remainder of the New sewer easements depicted and described in Exhibit "C", attached to this ordinance and incorporated herein by reference, upon receipt of properly executed easements granting sewer easements from the

owner of record of the Property to the City in accordance with Exhibit "C" and in substantial form as prescribed by the City Attorney.

Section 3. That the Mayor is authorized to ratify the encroachment agreement allowing Georgia Power facilities to be located within the easement area described in those plans by Long Engineering Inc, attached and incorporated herein by reference as Exhibit D; and

Section 4. Upon final approval of this Ordinance and final approval and acceptance of all new sanitary and storm sewer facilities by the Department of Watershed Management, the Mayor or her designee is authorized to execute the Quitclaim Deeds, the Sewer Easement Agreements, and any documents and instruments necessary to accomplish the abandonments and dedications set forth in Sections 1-3 provided that all conditions set forth herein have been satisfied.

<u>Section 5.</u> That any and all other easements upon said Property to the interest of the City of Atlanta shall remain in effect unchanged.

<u>Section 6.</u> The City Attorney is authorized to prepare all necessary documents and instruments to effectuate the purposes set forth herein and to record all documents in the records of Fulton County as may be required.

<u>Section 7.</u> All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed to the extent of the conflict.





### DESCRIPTION OF PROPERTY

ALL THAT TRACT OR PARCEL OF LAND lying and being located in the City of Atlanta in Land Lot 12 of the 14<sup>th</sup> District, Fulton County, Georgia, and being more particularly described as follows:

BEGINNING at an iron pin set at the intersection of the western right-of-way line of Stovall Street (50-foot right-of-way) and the northern right-of-way line of Sanders Avenue (30-foot right-of-way); run thence in a generally westerly direction along said northern right-of-way line of Sanders Avenue North 89° 07' 08" West, 370.80 feet to an iron pin set; thence leaving said right-of-way line and running South 18° 33' 49" West, 30.40 feet to a point located on the southern right-of-way line of the aforementioned Sanders Avenue; thus leaving said southern right-of-way line, run thence South 00° 49' 05" West, 627.80 feet to a 1/2-inch iron pin found; thence South 05° 17' 18" East, 160.66 feet to a mark in the concrete on the northern right-of-way line of Glenwood Avenue (50-foot rightof-way); run thence in a generally westerly direction along the northern right-of-way line of Glenwood Avenue North 89° 20' 38" West, 724.20 feet to a point located at the intersection of said right-of-way line with the eastern right-of-way line of the Glenwood-Wylie connector (undisclosed right-of-way width); run thence in a generally northerly direction along said eastern right-of-way line of the Glenwood-Wylie connector the following courses and distances: along the arc of a 2,570,30-foot radius curve turning to the left an arc distance of 424,40 feet to a point (said arc being subtended by a chord bearing North 03" 43' 08" East, and having a chord length of 423.92 feet); North 01° 00' 41" West, 246.75 feet to an iron pin set; North 88° 57' 53" East, 50.00 feet to an iron pin set; North 01° 02' 08 West, 145.31 feet to an iron pin set; North 88° 36' 08" West, 74.80 feet to an iron pin set; North 00" 56' 31" West, 337.61 feet to a point; thence leaving said right-of-way line run North 70° 20' 59" East, 489,65 feet to a point; thence North 76° 31" 40" East, 374,48 feet to a point thence North 73° 01' 09" East, 290.97 feet to a point located on the aforementioned western right-of-way line of Stovall Street; running thence in a generally southerly direction along said right-of-way line South 00° 24' 46" East, 689.78 feet to an iron pin set and the POINT OF BEGINNING.

The above-described property is shown as "Tract 2" containing 26.081 acres (including the billboard parcel) on, and is described according to, that certain Survey prepared for Blue Circle, Inc. by I.S.D. Ross & Associates (Jack R. Busby, Georgia R. L. S. No. 1875), originally dated March 18, 1986, last revised September 5, 1990, which certain Survey is incorporated herein by this reference and made a part hereof.

(continued)

Exhibit "A" Page 1 of 2



# Exhibit "A" Continued

## TOGETHER WITH

ALL THAT TRACT OR PARCEL OF LAND BEING A PORTION OF LAND LOT 12 OF THE 14TH DISTRICT, FULTON COUNTY, CITY OF ATLANTA. GEORGIA CONTAINING 52.660 SQUARE FEET OR 0.750 ACRES AS SHOWN ON THAT CERTAIN PLAT OF SURVEY PREPARED FOR BLUE CIRCLE, INC. BY LAND DEVELOPMENT TECHNOLOGIES, DATED AUGUST 15, 1991; BEARING THE SEAL OF JACK R. BUSBY, GEORGIA REGISTERED LAND SURVEYOR NO. 1875, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING at a concrete monument at the intersection of the north right-of-way of Glenwood Avenue (50'R/W) and the east right-ofway of the Glenwood-Wylie, Connector (R/W is Variable at this point), said connector being under construction at the time of the survey, said point also being the intersection of said R/W of Glenwood Avenue and what was formerly the east right-of-way of the West Point Railroad (formerly 100'R/W): thence North 38 degrees 48 minutes il seconds West 44.42 feet along said right-ofway of Glenwood-Wylis Connector to a concrete monument; thence North 05 degrees 39 minutes 00 seconds East 169,85 feet along said right-of-way to a concrete monument; thence morth along said right-of-way and following a curve to the left an arc distance of 171.37 feet to a concrete monument, said curve having a radius length of 1,462.40 feet and a chord bearing and distance of North 02 degrees 17 minutes 35 seconds East 171.27 feet; thence North Ol degrees 03 minutes 51. seconds West 217.30 feet along said right-of-way to a concrete monument; thence North 01 degrees 01 minutes 18 seconds East 225.76 feet along said right-of-way to a concrete monument; thence South 88 degrees 36 minutes 08 seconds East 74.80 feet to an iron pin; thence South 01 degrees 02 minutes 08 seconds East 145.31 feet to an iron pin; thence S 88 degrees 57 minutes 53 seconds. West 50.00 feet to an iron pin; thence South O1 degrees 00 minutes 41 seconds East 246:75 feet to an iron pin; thence south and following a curve to the right an are distance of 424.40 feet to the POINT OF BEGINNING, maid curve having a radius length of 2,570.30 feet and a chord bearing and distance of South 03 degrees 43 minutes 08 seconds West 423.92 feet.

2057/159

STATE OF GEORGIA : COUNTY OF FULLYON:

ATLANTA WOOD PRESERVING CO., INC.

of said State and County, part y of the first part, a 1

CITY OF ATLANTA, a musicipal corporation of the Seate of Georgia, perry of the second pur-

WITNESSETH, that for and in crealerrades of One (\$1.00) Dollar, cash in hand paid at and before the centing and delivery of these presents, the receipt whereof is hereby acknowledged, and of the benefits to he conferred upon the property by the construction through it of a SEVER to say an STOVALL ST., S. R. RIVEN SEVER . Fald party bergained, sold and courseyed to the CITY OF ATLANTA, his successors and assigns, the right, title and privilege of an easement to construct and maintain, a SEBER, with the right of eatry for the puspose of inspection, repair, or colouge, through the property of the part y — of the first part in Land Lee 12 —of the 12th Dissict of Pulton County, Georgia, and lying on the side of Stovall St., N. E., West being at the southwest corner of Stovall and Sherwood Ste., S. Z.

THE approximate location and size of SEVER are shows on map and prefile prepared by and on file in the Office of C ief of Construction of the City of Atlants.

THE newer work shall be done at the expense of the City of Atlanta and with an Herle inconvenience to property owner or troser as is consistent with reasonable progress, and the property shall be left in ably clean and good condition syon completion of the work, and the part y ciaim for desagre on account of the construction or mainten

FULTON FOLIAN

RECORDED FULTON CO. GA.

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THE surer of this property, across and through which may other to further relief from anarenment and/or other charges for newers installed in may atweet or newers which abox said property, except as provided by law.

IN TITNESS THEREOF, the mid party of the first part he s band(s) and tay Its scales), the day and year first above written

Signed, senied and delivered

H. P. 3EAL

ATTIANTA WOOD PROSERVING CO., INC.

John R. Williams , President

(SEAL)

CORP

BOOK 4789 THE 365 ...

14

1840 39

In Richess thereof, the said party of the first on the day and year first above written. part has hereunto affixed his hand and seal Signed, sealed and delivered in the presonce of: R. Z. Rodgers (L.S.) W. Price H. B. Andrews (H. P. Seal - Atlanta, Ca.) Notary Public, Ca. State at Large. 27. 1935 Filed: 12:51 P.M. Apr. Recorded: C.S.C. Deed Book 1355, page 249. Deed Book 1267, page 256. #784587 STATE OF GEORGIA: COUNTY OF FULTON: The undersigned being the owner and holder of a number of unpaid notes, made by Paul A. Occhalin and Virginia Goodrich Occhalin as part of a series of notes executed and delivered by said parties on May 5th, 1933, payable to fine order of George P. Moore, all notes of said series being secured by a security deed from Paul A. Occhalin and Virginia Goodrich Occhalin to George P. Moore, dated May 5th, 1933 and remorded July 6th 1933 in Fulton County Deed Book 1953, page 249, does hereby consent and agree that the said Paul A. Occhalin and Virginia Goodrich Occhalin may enter into a written agreement with The Prudential Insurance Company of America; whereby and whereunder a certain note made by George P. Moore to The Prudential Insurance Company of America, whereby and whereunder a certain note made by George P. Moore to The Prudential Insurance Company of America, dated April 29th, 1932, and Geo: P. Moore to The Frudential Insurance Company of America, dated April 29th, 1932, and rect d May 2nd 1932, in Fulton County Deed Book 1267 mage 256, shall be extended for a period of 100 months from April 29th 1932, or until April 1st 1847; and does further agree that the lien of the notes and security deed owned by the underlaigned shall stay and remain junior and subordinate to the liep of the note and security deed and extension agreement held by The Prudential Insurance Company of America. This 28 day of Appil 1937. Signed, scaled and delivered in the presence of: George F. Moore (SEAL) Dorothy S. Risne, Alex W. Hitz (N. P. Seal - Atlant, Notary Public, Georgia, State at Lar My commission expires oct. 10, 1938. 10:07 A.M. Apr. 28, 1937 Ray 3, 1937 Receided: 3. BTATE OF GLORGIA, COUNTY OF FULTON **₹784698** This indenture entered into on this, the 7th day of April 1936, between Atlanta & West Point Railroad of said State and County, party of the first part, and The City of Atlanta, a municipal corporation of said State, party of the second part, WITHERSETH, that for and in consideration of one dollar (\$1.00) cash in hand paid at and before the scaling and delivery of these presents, the receipt whereof is hereby acknowledged, and of the benefits to be conferred upon the property by the construction through it of a sever to take care of sewage now flowing in the open stream, said party of the first part has granted, bergained, soid and conveyed to The City of Atlanta, its successors and assigns, the right, title and privilege of an easement to comstruct and maintain a sewer with the right of entry for purposes of inspection and repair, through the property of the party of the first part in Lend Lot 12 of the 14th (Fourteenth District of Fulton County and lying on the east side of Chester Amer. side of Chester Aye., The approximate location and size of sever are shown on map and profile prepared and on file in the Office of the Chief of Construction of the City of Atlanta. The sewer: rk shall be done at the expense of the City of Atlanta and with as little inconvenience to the property owner or tenant as is consistent with reasonable progress and the property shall be left in reasonably clean and good condition upon completion of the work, and the party of the first part waives for himself, his heirs and assigns all right to my further compensation or claim for damages on account of the construction or maintenance of the sewer or the use of the property as herein agreed. In Sitness Thereof, the said party of the first part has hereunto affixed his hand and seal on the day and year first above written. Signed, sealed and delivered in the presence of: ATLANTA & WEST POINT RAILROAD Chas. A. Mickersham President & General Manager M. I. Bowie F. H. Punce - Secty. (Corp. Seal) F. E. Ratere (N. P. Seal - Atlanta, Ga.) Notary Public, Georgia, State at Large. Approved as to formy this April 1, 1936. General Counsel, Atlanta and Kest Foint Rail Road Company.

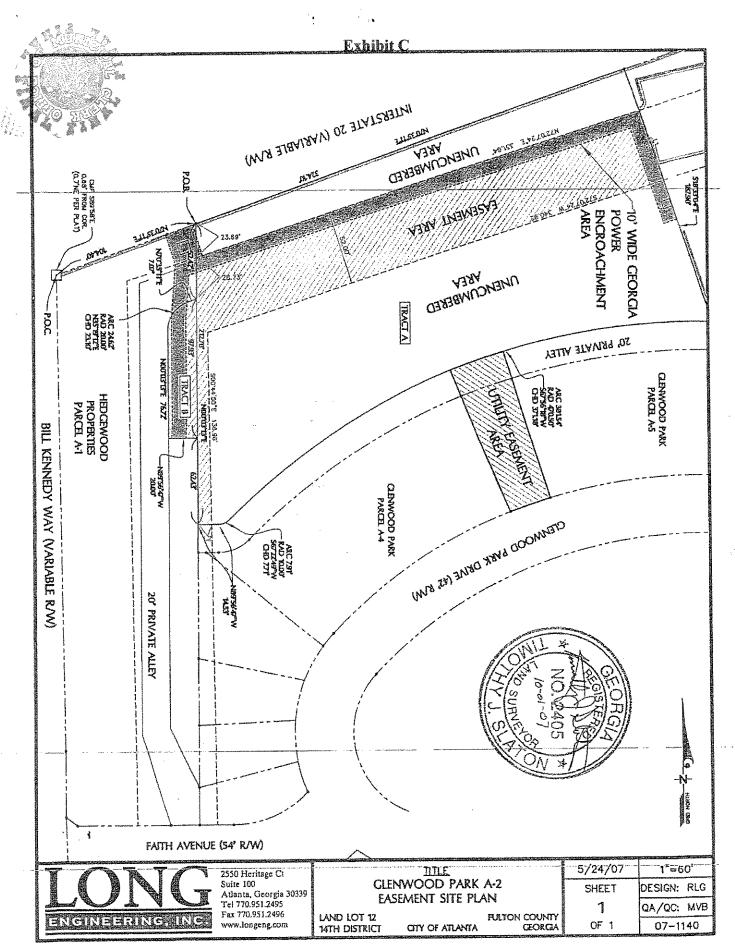


Exhibit "C" Page 1 of 1



### GOVERNMENTAL ENCROACHMENT AGREEMENT FOR EASEMENT

	L.F. APPLICATION#	***************************************
SUBJECT:		

The City of Atlanta, hereinafter called the "City," hereby consents for the Georgia Power Company, hereunder called the "Undersigned," to use an area within the City's Water System line right(s)-of-way conveyed to the City by: (1) that certain Water Utility System Easement dated September 5, 2007 between Glenwood Park, LLC and the City of Atlanta and recorded at Book \_\_, Page \_\_, Fulton County records; and (2) that certain Water Utility System Easement dated September 2007 between Glenwood Park, LLC and the City of Atlanta and recorded at Book \_\_ at Page \_\_, Fulton County records, both Easements being attached hereto as Exhibit "A" and the areas conveyed thereunder being collectively referred to as the "Easement Area.":

- A. Such rights-of-way being all areas designated as "10' Wide Georgia Power Encroachment Area" within the area designated "Tract B" as shown on the plat titled, "Glenwood Park A-2 Easement Site Plan," by Long Engineering, Inc., dated May 24, 2007 and attached and incorporated herein by reference as "Exhibit B-1", together with
- B. Such rights-of-way being all areas designated as "10' Wide Georgia Power Company Encroachment" within the area designated as "Tract 1" as shown on the plat titled, "Glenwood Park Planned Development Easement Exhibit," by Long Engineering, Inc., dated August 20, 2007, last revised September 10, 2007 and attached hereto and incorporated herein by reference as "Exhibit B".

The use of the area by the Undersigned within said right(s)-of-way, pursuant to this consent, shall be limited to the construction, operation and maintenance of its lines for transmitting electric current, with poles, wires, transformers, service pedestals, and other necessary apparatus, fixtures and appliances the location and to the extent as shown on said attached plat. It is specifically understood that no buildings or other obstructions of any type will be permitted within or on subject City's right(s)-of-way.

1. The Undersigned agrees to obtain all necessary rights from the owners of the lands crossed by the City's right(s)-of-way.



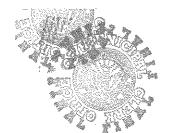
- 2. The Undersigned agrees to use said area within the City's right(s)-of-way in such a manner as will not interfere with the City's activities and facilities as now, or hereafter exist thereon (hereinafter City's "activities" and "facilities").
- 3. The Undersigned agrees that the use of City's right(s)-of-way as herein provided shall in no way affect the validity of the City's easement(s) and shall in no way modify or restrict the use or rights of the City, its successors or assigns, in and to the area to be used. The Undersigned acknowledges the City's right and title to said easement(s) and the priority of the City's right of use and hereby agrees not to resist or assail said priority.
- 4. The use of said area within said right(s)-of-way by the Undersigned shall be at the sole risk and expense of the Undersigned, and the City is specifically relieved of any responsibility for damage to the facilities and property of the Undersigned resulting or occurring from the use of said right(s)-of-way by the City as provided herein. The Undersigned covenants not to sue City in that instance.
- 5. Notwithstanding anything to the contrary contained herein, the Undersigned agrees to reimburse the City for all coast and expense for any damage to the City's facilities resulting from the use of by the Undersigned of said area within said right(s)-of-way. Also, the Undersigned agrees that if in the opinion of the City, it becomes necessary, as a result of the exercise of the permission herein granted, to relocate, rearrange, change or raise any of the City's facilities, to promptly reimburse the City for all cost and expense involved in such relocation, rearrangement or raising of said facilities.
- 6. The Undersigned agrees to notify or have the Undersigned's contractor notify the City of Atlanta, Department of Watershed Management, at least three (3) business days after obtaining approval from the City prior to actual construction or alteration of any existing facilities on the City's right(s)-of-way.
- 7. The undersigned agrees, to the extent it may lawfully do so, to indemnify and save harmless and defend the City from the payment of any sum or sums of money to any persons whomsoever (including third persons, subcontractors, the Undersigned, and agents and employees of them) on account of claims or suits growing out of injuries to persons (including death) or damage to property (including property of the City) in any way attributable to or arising out of the use of the right(s)-of-way, by the Undersigned as herein provided, including (but without limiting the generality of the foregoing) all liens, garnishments, attachments, claims, suits, judgments, costs, attorneys fees, cost of investigation and of the defense and excepting only those situations where the personal injury or property damage claimed have been caused by reason of the sole negligence on the part of the City, its agents or employees.
- 8. The undersigned Contractor ("Contractor") hereby agrees to indemnify and defend the City, its agents and employees as provided for above from payment of any sum or sums of money by reason of claims or suits resulting from injuries (including death) to any person or damage to any property which is in any manner attributable to or resulting from the construction, use or maintenance of the Undersigned's facilities, projects or programs conducted on City's right(s)-of-way herein described, and excepting only those situations where the

personal injury or property damage claimed have been caused by reason of the sole negligence on the part of the City, its agents or employees.

- 9. The Contractor further agrees to carry, if performing work or construction, liability insurance which shall specifically cover such contractually assumed liability. A certificate of such insurance issued by the appropriate insurance company shall be furnished to the City upon request, said amount of insurance to be not less than \$2,000,000 per occurrence for bodily injury and property damage which arise out of or result from the Undersigned's and/or Contractor's operations under this agreement. The City shall be named as an additional insured on this liability insurance coverage.
- 10. Any requirements for review or prior approval by the City under this Agreement shall not apply to any lines, structures or facilities of the Undersigned which exist as of the date of this Agreement within the area described on Exhibit A.
- 11. This Agreement shall inure to the benefit of and be binding upon the parties, their heirs, successors and/or assigns, and the executed agreement shall be recorded in the records of Fulton County.

authorization, duly adopted (a copy execution and acceptance of this A and in the event the Undersigned f and returned this Agreement on o	accepts the foregoing consent, and has by legal and proper y of which will be furnished to City on request), authorized the Agreement subject to the terms and conditions set forth above fails to perform as herein provided and shall not have executed or before the day of, 2007, this Agreement the City's right(s)-of-way as herein provided for shall be made.
IN WITNESS WHEREOF, 2007.	, this Agreement has been duly executed, this the day of
	UNDERSIGNED
WITNESS:	By:
NOTARY PUBLIC:	NAME:TITLE:
	CONTRACTOR
WITNESS:	By:
NOTARY PUBLIC:	NAME:TITLE:

[signatures continued on following page]



[signatures continued from previous page]

	<u>CITY OF ATLANTA</u>
WITNESS:	By:
	NAME:
NOTARY PUBLIC:	TITLE:



## TRANSMITTAL FORM FOR LEGISLATION

TO: MAYOR'S OFFICE		ATTN:	GREG PRIDGEON
Department's Legislative Lia	nison	Maisha L. W	ood
Contact Number: x6887			
Originating Department:	Watershed Man	agement	
Committee(s) of Purview: _C	City Utilities		
Council Deadline:	Oc	ctober 15, 2007	
Anticipated Committee Meet	ting Date(s):(	October 30 and Nov	ember 13, 2007
Anticipated Full Council Dat	e: No	oyember 19, 2007	
Legislative Counsel (Signatu	re):	Myres &	
Commissioner Signature	Kebest	Citrul.	
Chief Procurement Officer S	ignature:	NA	
<u>CAPTION</u> AN ORDINANCE BY CITY UTILITIES COM	MITTEE		
AN ORDINANCE AUTHOR EASEMENTS ON CERTAL AND LOCATED IN LANDING AND EASEMENTS FOR THE CONSTRUCTED BY GLEST THE ENCROACHMENT FACILITIES TO BE LOCATED IN THIS OF CESCRIBED IN THIS OF CESCRIBED AND FOR OTHER PURPOSESTANT OF CESCRIBED SECUTE AND FOR OTHER PURPOSESTANT OF CESCRIBE OF CES	IN PROPERTY LOT 12 OF TH AUTHORIZING NEW STOR NWOOD PARK STRUCTURE; AGREEME TED WITHIN RDINANCE; ANY NECESS SES.	OWNED BY GIE 14 <sup>TH</sup> DISTRICE THE ACCEPTAN AND SANITE, L.L.C. UPON FAUTHORIZING THE DESIGNATE AUTHORIZING	LENWOOD PARK, L.L.C. T OF FULTON COUNTY; NCE OF NEW SEWER ARY SEWER SYSTEM INAL ACCEPTANCE OF THE RATIFICATION OF G GEORGIA POWER ED EASEMENT AREA AS THE MAYOR OR HER
FINANCIAL IMPACT (if any	):		
Mayor's Staff Only	* = = = = = = = = = = = = = = = = = = =	at you also that the last that the part and any the good that the good the good that the good that the good that the good that the good the good the good that the good that the good	
Received by CPO:	Rec	eived by LC from C	PO:
(date) Received by Mayor's Office: _	10.19.07	Reviewed by:	(date)
Submitted to Council:	(date)		(date)
_	(date)		

### Part II: Legislative White Paper

### A. To be completed by Legislative Counsel:

Committee of Purview: City Utilities Committee

Caption: AN ORDINANCE

BY CITY UTILITIES COMMITTEE

AN ORDINANCE AUTHORIZING THE ABANDONMENT OF CERTAIN SEWER EASEMENTS ON CERTAIN PROPERTY OWNED BY GLENWOOD PARK, L.L.C. AND LOCATED IN LANDLOT 12 OF THE 14<sup>TH</sup> DISTRICT OF FULTON COUNTY; ACKNOWLEDGING AND AUTHORIZING THE ACCEPTANCE OF NEW SEWER EASEMENTS FOR THE NEW STORM AND SANITARY SEWER SYSTEM CONSTRUCTED BY GLENWOOD PARK, L.L.C. UPON FINAL ACCEPTANCE OF THE DEDICATED INFRASTRUCTURE; AUTHORIZING THE RATIFICATION OF THE ENCROACHMENT AGREEMENT ALLOWING GEORGIA POWER FACILITIES TO BE LOCATED WITHIN THE DESIGNATED EASEMENT AREA AS DESCRIBED IN THIS ORDINANCE; AUTHORIZING THE MAYOR OR HER DESIGNEE TO EXECUTE ANY NECESSARY DOCUMENTS AND INSTRUMENTS; AND FOR OTHER PURPOSES.

Council Meeting Date: November 5, 2007

Requesting Dept.: Watershed Management

### B. To be completed by the department:

#### 1. Please provide a summary of the purpose of this legislation (Justification Statement).

The purpose of this legislation is to authorize the abandonment of the Old Easements and associated infrastructure and the acceptance of dedicated New Easements and infrastructure for the remaining portions of the Development upon final approval of that infrastructure for the remainder of the Glenwood Park Planned Development and ratifies an encroachment agreement allowing Georgia Power facilities to be located within the easement area as described in the legislation.

### 2. Please provide background information regarding this legislation.

In previous legislation, 07-O-0301, two sanitary sewer easements were abandoned in the Development and new sewer easements were dedicated to the City in a portion of the development. This legislation authorizes similar actions for the remainder of the development.

### 3. If Applicable/Known:

(a) Contract Type (e.g. Professional Services, Construction Agreement, etc): N/A

(b)	Source Selection: N/A			
(c)	Bids/Proposals Due: N/A			
(d)	Invitations Issued: N/A			
(e)	Number of Bids: N/A			
(f)	Proposals Received: N/A			
(g)	Bidders/Proponents: N/A			
(h)	Term of Contract:			
4. Fund	d Account Center (Ex. Name and number): N/A			
	d Account Center ( <i>Ex. Name and number</i> ): N/A  Account:	Center:		
Fund: _		Center:		
Fund: _ 5. Sou	Account:	Center:		

This Legislative Request Form Was Prepared By: M. Theresa Stewart

### Atlanta City Council

### SPECIAL SESSION

### CONSENT II

### REFER

YEAS:	13
NAYS:	0
ABSTENTIONS:	0
NOT VOTING:	1
EXCUSED:	0
ABSENT	2

Y	Smith	Y	Archibong	Y	Moore	Y	Mitchell
Y	Hall	В	Fauver	В	Martin	Y	Norwood
Y	Young	Y	Shook	Y	Maddox	Y	Willis
Y	Winslow	Y	Muller	Y	Sheperd	NV	Borders